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C O N F I D E N T I A L SECTION 01 OF 03 ANKARA 001337

SIPDIS

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TAGS: [PGOV](#) [PINS](#) [PREL](#) [TU](#)

SUBJECT: ERGENEKON INDICTMENT STILL MURKY BUT PROCESS ALONE
IS SIGNIFICANT

REF: A. ISTANBUL 380

[1](#)B. ANKARA 1217

[1](#)C. 07 ANKARA 1112

[1](#)D. ANKARA 502

[1](#)E. ANKARA 213

Classified By: Ambassador Ross Wilson for reasons 1.4(b,d)

[1](#)1. (C) SUMMARY. Istanbul's Heavy Penal Court decided July 25 to accept the indictment filed in the Ergenekon case and proceed to prosecution (ref A). The 2,500 page indictment has clarified little about the case. Some Turks see the indictment as a courageous step toward bringing Turkey's state and society under the rule of law, purging corrupt elements and laying the groundwork for greater public accountability. Others see a politically manipulated investigation targeting opponents of the ruling Justice and Development Party (AKP) and designed to protect AKP from closure (ref B). An additional 26 suspects were detained July 23. Whatever the outcome, the unprecedented arrest of senior retired military officers accused of serious crimes against the government -- and the military's acquiescence -- may play an important role in deterring future coup plotters and weaken the iron grip of traditional "Deep State" elites on Turkey's state institutions. END SUMMARY.

Initial Reactions: Hope and Dismissiveness

[1](#)2. (C) The media's portrayal of the Ergenekon case as a Kemalists-versus-AKP battle distracts from the investigation's significance as a judicial effort to tackle one of Turkey's untouchable subjects by exposing an alleged crime network with military links. Some liberal contacts hope the case represents a "Clean Hands" process that will hold the traditional state elites accountable for their conduct. Former Ozal-era State Minister Hasan Celal Guzel calls Ergenekon the most important case in the Republic's history because the judiciary is questioning whether the military may act with the impunity it has enjoyed in the past. Ankara University professor Baskin Oran argues that for the first time, people may be tried for planning a coup and the implicit immunity of the generals may be lifted.

[1](#)3. (SBU) Arrayed against the prosecutor's efforts is a variety of status quo interests, many unwilling to concede that "patriotic" retired generals may have gone too far. Eray Akdag of TUSIAD (Turkish Businessmen's and Industrialists Association) emphasized to us his doubts about

the substance of the indictment. Other critics focused on the lack of due process in holding suspects without charge for extended periods, and ridiculed the twenty "secret" witnesses cited in support of the allegations and the vague ties to other unsolved crimes. Some opponents accuse the prosecutor of redefining "terrorism" to make the Ergenekon charges fit that crime (ref A). A Republican People's Party (CHP) statement belittled the indictment, saying the "mountain gave birth to a mouse." CHP's Atilla Kart accused the government of interfering in the legal process and using "politicized law enforcement" (i.e. the Turkish National Police) against its opponents.

¶4. (SBU) Despite the heated debate and an additional 26 arrests on July 23, the country remains calm. Ayhan Bilgen, former chairman of human rights NGO Mazlum-Der, told us he believes social pressure is necessary to stiffen the resolve of the judiciary to examine those with powerful state connections but sees no potential for civilian unrest. Rallies calling for respect for democracy and a new constitution drew tens of thousands in Bursa, Samsun and Malatya; Hak-Is labor President Salim Uslu addressed the crowd in Bursa, which was allowed to carry only Turkish flags. Another, organized by anti-coup political parties and NGOs, is planned for July 26 in Ankara. In response, the Atatürkist Thought Association (ADD) held an "Atatürk and Democracy" rally in Kadikoy (Istanbul). ADD Vice Chairman Professor Sina Aksin calls the Ergenekon case an effort to pressure Atatürkist people; Turkey Youth Union founding president Adnan Turkkan claims the case was "patented by the US." Turkish Academics' Association president contends the

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indictment's real goal is "to erase Mustafa Kemal Atatürk from history." Rallies nominally "in support of the judiciary" touted by ultra-nationalist media figure Tuncay Ozkan have attracted extremely low turnout; the July 7 kickoff events drew only a few hundred people.

A Chance for Accountability?

¶5. (C) The case targets what many liberals describe as the most concrete manifestation of Turkey's "Deep State" in recent years, and seeks to link the Ergenekon gang to specific crimes, some going back more than a decade. The indictment reportedly contains evidence linking Ergenekon to the 2006 attack on the High Administrative Court (Danistay) which killed one judge and wounded others, renewing questions surrounding the convicted shooter, a disgruntled Islamist lawyer. Former Mayor of Diyarbakir's Sur municipality Abdullah Demirtas told us the indictment could also shed light on unsolved incidents such as Susurluk and Semdinli, which pointed to murky ties between members of the state establishment and criminals. Both cases evaporated without serious legal consequences for those allegedly involved.

¶6. (C) Many hope that legal and public scrutiny of the Ergenekon crimes will open much-needed opportunities for greater transparency and democracy. Turkey's recent economic, social and political changes are shifting the power balance away from an entrenched elite resistant to change. The fact the military acquiesced to the arrest of two retired four-star generals is in itself important. Former MP Nazli Ilıcak cautioned that formal institutional change remains a necessary step: as long as the military has the duty of protecting and guarding the Republic, Turkey will not be able to prevent the next Ergenekon-style interference. Ankara University Professor Tayfun Altay told us he wishes Turkey could carry out a more orderly and decent process of democratization. The Ergenekon precedent could ultimately raise public demand for greater accountability by the ruling AKP concerning dubious public financing, sales and tenders, inappropriate government pressure and questionable enrichment of party members.

Hurdles Along the Way

¶17. (C) Significant challenges will undercut the prosecutor's ability to see this case through. The arrests of prominent individuals show the alleged gang may extend high into elite institutions. Samil Tayyar, author of "Operation Ergenekon" and other books on the Deep State, claims there are three top witnesses in the case whose yet-to-be-revealed involvement would shock the nation. With charges of terrorism, incitement to uprising, and political assassination, the stakes for the accused -- and the judiciary -- are high. The prosecutor reportedly has received threats and key witnesses are likely at risk. Tayyar said he too has had death threats since publishing his Ergenekon book, and now receives police protection. Professor Baskin Oran worries there will be disputes over whether military or civilian courts have jurisdiction; this and other technicalities may cause the case to drag on for years without a clear-cut result, as in previous investigations.

¶18. (C) The biggest obstacle may be inertia. The Ergenekon case will be tried in a judicial system that views defense of the Kemalist order as its paramount mission, above and beyond the written law (refs C-E). Previous bold prosecutors who have looked too closely into the state's dirty laundry have found themselves sidelined or disbarred. The Istanbul public prosecutor's resolve, critical to getting the case this far, will need to remain strong as the investigation proceeds. His reportedly "frequent" meetings with Prime Minister Erdogan have played a role in keeping the case alive, but have left both the prosecutor and the charges against Ergenekon open to allegations of political manipulation.

¶19. (C) By arguing in the indictment that Ergenekon members disingenuously used Ataturk's Kemalist principles as a guise for retaining power, the prosecutor is trying to persuade patriotic Turks the suspects are subversive criminals rather

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than national heroes. He will need an iron-clad case to make the charges stick but the case has already had some effect. A senior AKP journalist predicts that while the evidence may not support convictions, a clear political signal has been sent that such anti-democratic behavior is no longer acceptable. Perhaps this will be the case.

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